

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

EMMANUEL G. JUSTINIANO, JOSE NIEVES,
JOSE BARBOSA, DAHEED WILLIS, ANTHONY
KEITT, FRANK FODERA, JOSHUA MOSS,
OSCAR PUERTA, LUIS ARENAZA,
GUILLERMO MUNOZ, MILTON LAVERDE,
WILLIE S. BREWER, ISMAEL FRANCISCO,
STEVE M. NG, MANUEL SANTOS, JULIO
RIVERA, FREDDY VELEZ, BRYONT A LOPEZ,
MIGUEL CABREJA, JUAN VEVAS, TERRENCE
JONES, NICOLAS SALGADO, LUIS A. VEGA,
LOUIS TELESE, KENNETH WARING, ANTONY
G. HILL, JOSE GOMEZ ROSARIO, RODERICK
MASHALL, JOSE BLANCO, DAVID BAEZ,
KENYA EARLY, SAMMY HERNANDEZ,
NELSON MINYETY, BILL DELVIN, EDWIN J.
RAMIREZ CESPEDES, BENTO RODRIGUEZ,
PAUL STARAPOLA, ANDRES REYES, JESUS A.
MARTINEZ, DAVID BEACH, JONATHAN
DELROSARIO, JAMES SHAW, GARFIELD
GAMMON, DESEAN ALLEN, DERREK
HUGHES, JORGE A. MILANES, *and* CARMELO
NYANDUGAR, *each individually and on behalf of
all other individuals similarly situated,*

Plaintiffs,

v.

PHOENIX BEVERAGES, INC., WINDMILL
DISTRIBUTING COMPANY LP, d/b/a
PHOENIX/BEEHIVE, RODB, LLC, LONGFENG
TRUCKING, LLC, PHOENIX BEVERAGES MTO,
LLC, FORBEE CAPITAL KEG FUND, LLC,
HEINEKEN NORTH AMERICA, INC.,
HEINEKEN USA INCORPORATED, RODNEY
BREYMAN, GREGORY BREYMAN, PAUL
ROSSI, JOSEPH STANICH, *and* GEORGE
STRADA,

Defendants.

Case No. 13-CV-2332 (TLS) (JLC)

**DECLARATION OF
ROBERT E. CROTTY**

ROBERT E. CROTTY declares, pursuant to 28 U.S.C. § 1746, that:

1. I am an attorney admitted to practice in this Court and am a member of the law firm of Kelley Drye & Warren LLP, counsel to defendants Windmill Distributing Company, LP, d/b/a Phoenix/Beehive, Phoenix Beverages, Inc., RODB, LLC, Longfeng Trucking, LLC, Phoenix Beverages MTO, LLC, Forbee Capital Keg Fund, LLC, Heineken USA Incorporated, Rodney Brayman, Gregory Brayman,¹ Paul Rossi, Joseph Stanich, and George Strada (collectively, “Defendants” or “Phoenix”) in the above-captioned matter.² I submit this declaration in support of Defendants’ Motion to Dismiss Plaintiffs’ Amended Complaint.

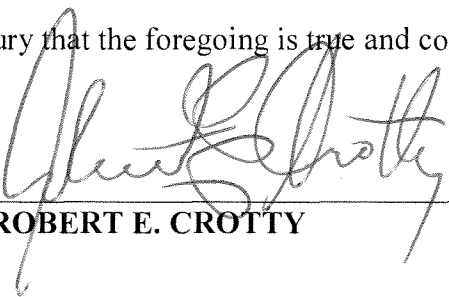
2. On May 10, 2013, my partner, Eugene T. D’Ablemont, sent a letter on behalf of Phoenix to Plaintiffs’ counsel setting forth in detail the factual and legal reasons that Plaintiffs’ claims fail as a matter of law. (A copy of Mr. D’Ablemont’s letter dated May 10, 2013 to Plaintiffs’ counsel is attached hereto as Exhibit A.)

3. On May 14, 2013, Plaintiff’s counsel responded by email to Mr. D’Ablemont that they did not intend to discontinue the action. (A copy of this email is attached hereto as Exhibit B.)

4. In response, on May 15, 2013, Mr. D’Ablemont sent another letter reiterating Phoenix’s position. (A copy of Mr. D’Ablemont’s May 15, 2013 letter is attached hereto as Exhibit C.)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 30, 2013.



ROBERT E. CROTTY

¹ Brayman is incorrectly spelled in the case caption as “Breyman.”

² My firm does not represent the defendant named as “Heineken North America, Inc.”